



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,724	10/27/2003	Joseph Loscalzo	102258.170 US3	9697
25270	7590	03/29/2006	EXAMINER	
EDWARD D GRIEFF HALE & DORR LLP 1455 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004			SRIVASTAVA, KAILASH C	
			ART UNIT	PAPER NUMBER
			1655	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

1. Applicants' Status inquiry filed 02 November 2005 is acknowledged and entered. An Office Action on said inquiry follows.
2. The Art Unit location of your application under prosecution at United States Patent and Trademark Office (i.e., USPTO) is changed to Art Unit 1655.
3. The assigned Examiner to your application under prosecution at the USPTO is Dr. Kailash C. Srivastava. To aid in correlating any papers for this application (i.e., USSN 10/692,724), all further correspondence regarding this application should be directed to Examiner Kailash C. Srivastava in Art Unit 1655.

CLAIMS STATUS

4. Claims 1-36 are pending.

Election/Restriction

5. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Group I – Claims 2-11 and 21-22 drawn to a Method of treating a vascular disease, classified under Class 424, Subclass 78.06.

Group II – Claim 12 drawn to a method to treat a vascular disease with a nitrosated beta adrenergic blocker, classified under Class 424, Subclass 184.

Group III - Claims 13-16 drawn to method to treat a vascular disease with a nitrosated HMG-CoA, classified under Class 424, Subclass 114.

Group IV – Claim 17, drawn to a method to treat a vascular disease with a nitrosated calcium channel blocker, classified under Class 514, Subclass 396.

Group V - Claims 18-19 drawn to treat a vascular disease with a nitrosated angiotensin II receptor antagonist, classified under Class 435, Subclass 338.

Group VI – Claim 20 drawn to treat a vascular disease with a rennin inhibitor, classified under Class 435, Subclass 69.2.

Group VII – Claim 23-25 and 27-37 drawn to treat a vascular disease with at least one antioxidant and a pharmaceutically acceptable salt that donates or releases nitric oxide, classified under Class 424, Subclass 78.02.

Group VIII – Claim 26 drawn to treat a vascular disease with an antioxidant enzyme, e.g., superoxide dismutase, classified under Class 435, Subclass 183.

ms

6. Claim 1 links inventions in groups I-VIII. The restriction requirement between the linked inventions is subject to the non-allowance of the linking claims, identified above. Upon the allowance of the linking claims, the restriction requirement as to the linked inventions shall be withdrawn and any claims depending from or otherwise including all the limitations of the allowable linking claims will be entitled to examination in the instant application. Applicants are advised that if any such claims depending from or including all the limitations of the allowable linking claims are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction requirement is withdrawn, the provisions of 35 U.S.C. §121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131- 32 (CCPA 1971). See also MPEP §804.01.

INVENTIONS ARE INDEPENDENT OR DISTINCT

7. The inventions are independent or distinct, each from the other because of the following reasons:

Inventions in Groups I-VIII are unrelated to each other because they are directed to different inventions that are not connected in design, operation and/or effect. These inventions are independent since they are not disclosed as capable of use together. They have different modes of operation, they have different functions, and/or they have different effects. One would not have to practice the various methods at the same time to practice just one method alone (MPEP § 806.04, MPEP § 808.01). In the instant case, for example invention recited in claims encompassed in Group III are directed to a method to treat a vascular disease via administering an HMG-CoA inhibitor, whereas the one in Group VIII requires an antioxidant enzyme and would therefore, may not be practiced together.

The inventions discussed above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effect and require independent searches. The search for each one of the above inventions is not coextensive, particularly with regard to the literature search. Further, a reference that would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification (Class and subclass), and their recognized diverse subject matter, restriction for examination purposes as indicated is proper.

8. Applicants are advised that a reply to this requirement must include an identification of an invention elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicants will be entitled to consideration of additional claims which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR §1.141. Currently, Claims 1 and 3 are generic claims. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR §1.48(b). Any amendment of inventorship must be accompanied by a petition under 37 CFR §1.48(b) and by the fee required under 37 CFR §1.17(I).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kailash C. Srivastava whose telephone number is (571) 272-0923. The examiner can normally be reached on Monday to Thursday from 7:30 A.M. to 6:00 P.M. (Eastern Standard or Daylight Savings Time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Terry McKelvey, can be reached on (571)-272-0775 Monday through Friday between 8:30 A.M. and 5:30 P.M. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.


Any inquiry of a general nature or relating to the status of this application or proceeding may be obtained from the Patent Application Information Retrieval (i.e., PAIR) system. Status information for the published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (i.e., EBC) at: (866)-217-9197 (toll-free). Alternatively, status inquiries should be directed to the receptionist whose telephone number is (703) 308-0196.


Kailash C. Srivastava, Ph.D.
Patent Examiner

Art Unit 1651
(571) 272-0923

March 20, 2006


DAVID M. NAFF
PRIMARY EXAMINER
ART UNIT 1651